

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2300947
<b>Decision Date:</b>	3/23/2023	<b>Hearing Date:</b>	03/10/2023
<b>Hearing Officer:</b>	Alexandra Shube		

**Appearance for Appellant:**

*Via telephone:*

Pro se

**Appearance for MassHealth:**

*Via telephone:*

Dr. Sheldon Sullaway



*The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, Quincy, Massachusetts 02171*

# APPEAL DECISION

<b>Appeal Decision:</b>	Approve	<b>Issue:</b>	Prior Authorization – Adult Dental
<b>Decision Date:</b>	3/23/2023	<b>Hearing Date:</b>	03/10/2023
<b>MassHealth’s Rep.:</b>	Dr. Sullaway	<b>Appellant’s Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South Remote	<b>Aid Pending:</b>	No

## Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

## Jurisdiction

Through a notice dated January 13, 2023, MassHealth denied the appellant's prior authorization request for dental service codes D5110 – complete maxillary (upper) denture and D5120 – complete mandibular (lower) denture (Exhibits 1 and 4). The appellant filed this appeal in a timely manner on February 6, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Denial of a prior authorization request is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied the appellant’s prior authorization request for dental services code D5110 – complete upper denture and D5120 – complete lower denture.

## Issue

The appeal issue is whether MassHealth was correct in denying the appellant’s prior authorization request.

## Summary of Evidence

A MassHealth representative from DentaQuest, the third-party contractor that administers and manages the dental program available to MassHealth members, appeared via telephone and testified as follows: on January 13, 2023, the appellant's provider submitted a prior authorization request for dental service codes D5110 – complete upper denture and D5120 – complete lower denture. On January 13, 2023, MassHealth denied the request because of benefit limitations. The requested service is allowed once every seven years (or 84 months) and MassHealth records indicate that MassHealth paid for and the appellant received the requested services less than seven years ago, on March 7, 2017. Records also indicate that the appellant lost his dentures. Pursuant to 130 CMR 420.428(A), the patient is responsible for all denture care and maintenance following insertion.

The appellant was very upset that he is not able to eat any food, is having trouble swallowing, and his face is sinking in. He then explained that in [REDACTED] 2021, he had a serious accident in which he shattered his ankle and had to have surgery. He went into the hospital for surgery with his dentures. He was in the hospital for about six weeks and was almost ready to move into a rehabilitation facility, at which point he still had his dentures. But before he was able to be transferred to the rehabilitation facility, he started feeling strangely and he was suddenly intubated and put into an induced coma. When he woke up from the coma, he no longer had his dentures and the hospital could not find them anywhere.

The dentist from DentaQuest stated that while teeth are important for proper eating and general health, there are soft nourishing foods available, but unfortunately, pursuant to MassHealth regulations, there is no medical necessity for MassHealth dental members over the age of 21. He would have to uphold the denial.

## Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. On January 13, 2023, MassHealth received a prior authorization request for dental service codes D5110 – complete upper denture and D5120 – complete lower denture (Testimony and Exhibit 4).
2. On January 13, 2023, MassHealth denied the request because the service is allowed once every seven years (or 84 months) (Testimony and Exhibits 1 and 4).
3. MassHealth paid for and the appellant received the complete upper and lower dentures less than seven years ago, on March 7, 2017 (Testimony).
4. The appellant timely appealed the denial on February 6, 2023 (Exhibit 2).

5. In [REDACTED] 2021, the appellant had a serious accident in which he shattered his ankle and had to have surgery. He went into the hospital with his dentures and was hospitalized for six weeks. (Testimony).
6. Prior to being discharged from the hospital to a rehabilitation facility, he started feeling strangely and he was intubated and put into an induced coma. When he woke up from the coma, he no longer had his dentures and the hospital could not find them anywhere. (Testimony).

## Analysis and Conclusions of Law

Regulation 130 CMR 420.428 governs removable prosthodontic services and states the following:

- (A) General Conditions. The MassHealth agency pays for dentures services once per seven (7) calendar years per member, subject to the age limitations specified in 130 CMR 420.428(B). MassHealth payment includes all services associated with the fabrication and delivery process, including all adjustments necessary in the six months following insertion. The member is responsible for all denture care and maintenance following insertion. The MassHealth agency does not pay for complete dentures when the member's medical record indicates material limitations to the member's ability to cooperate during the fabrication of the denture or to accept or function with the denture, or indications that the member does not intend to utilize the denture.

Under 130 CMR 420.428(F), MassHealth pays for the necessary replacement of dentures. The member is responsible for denture care and maintenance. The member, or persons responsible for the member's custodial care, must take all possible steps to prevent the loss of the member's dentures. MassHealth does not pay for the replacement of dentures if the member's denture history reveals any of the following:

- (1) repair or reline will make the existing denture usable;
- (2) any of the dentures made previously have been unsatisfactory due to physiological causes that cannot be remedied;
- (3) a clinical evaluation suggests that the member will not adapt satisfactorily to the new denture;
- (4) no medical or surgical condition in the member necessitates a change in the denture or a requirement for a new denture;
- (5) the existing denture is less than seven years old and no other condition in this list applies;
- (6) the denture has been relined within the previous two years, unless the existing denture is at least seven years old;
- (7) there has been marked physiological change in the member's oral cavity, any further reline has a poor prognosis for success; or
- (8) the loss of the denture was not due to extraordinary circumstances such**

**as a fire in the home.**  
(Emphasis added).

Regulation 130 CMR 420.428 lays out the framework for denture benefits for MassHealth beneficiaries and their possible replacement and repair. There is a strong regulatory presumption that replacement dentures for those dentures which are less than seven years old cannot be approved by the MassHealth agency unless some extraordinary or unusual circumstances, such as those in 130 CMR 420.428(F)(1) through (4) or (6) through (8), exist.

In this matter, the record is clear that the appellant has lost his complete upper and lower dentures. The circumstances described by the appellant's sworn testimony was credible. After review of the testimony, the record justifies a conclusion that "extraordinary circumstances" for the loss are present.

While it is the member's responsibility to take all possible steps to prevent the loss of dentures, it is understandable that his medical condition, which required him to be intubated and in an induced coma, created a temporary emergency situation where he was not in control of his mind and body or aware of the circumstances. The appellant went into the hospital with his dentures and had them up until the time he was suddenly intubated and put into an induced coma. The hospital presumably removed his dentures at some point while he was in the induced coma and then lost them while he was unconscious. Therefore, the loss of the denture was due to extraordinary circumstances and the appellant has met the replacement criteria listed in 130 CMR 420.428(F). For this reason, the appeal is approved.

## **Order for MassHealth**

Approve the appellant's prior authorization request for service codes D5110 – complete upper denture and D5120 – complete lower denture. Send an approval notice to the appellant and his dental provider for approval of D5110 and D5120 as soon as possible and no later than 30 days from the date of the decision.

## Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact the MassHealth Dental Program through MassHealth Customer Service.<sup>1</sup> If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings at the address on the first page of this decision.

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Alexandra Shube  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA

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<sup>1</sup> The direct Customer Service number for DentaQuest for MassHealth members is 1-800-207-5019. The general number for MassHealth Customer Service is 1-800-841-2900.